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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-818]

Certain Steel Nails from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that imports of certain steel nails from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less-than-fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins of sales at less than fair value are listed below in the “Final Determination Margins” section of this notice.

DATES: Effective date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Dena Crossland, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3931 or (202) 482-3362, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its preliminary determination on December 29, 2014.¹ On January 2, 2015, United Nail Products Co., Ltd. (United Nail), a mandatory respondent in this investigation, filed a letter stating that it had decided to withdraw from the proceeding and would not be participating in a verification of its questionnaire responses. On January 7, 2015, the other mandatory respondent, Region Industries Co., Ltd. (Region Industries), filed a letter to the same effect. On February 18, 2015, we received a case brief from Petitioner, Mid-Continent Steel & Wire, Inc. We did not receive any rebuttal comments or requests for a hearing from interested parties. Based on the events that transpired after the preliminary determination and an analysis of the comments received, the Department has made changes to the *Preliminary Determination*.

Period of Investigation

The period of investigation is October 1, 2013, through March 31, 2014.

Scope of the Investigation

The product covered by this investigation is certain steel nails from Vietnam. For a full description of the scope of the investigation, *see* Appendix I to this notice.

Since the *Preliminary Determination*, several interested parties (*i.e.*, IKEA Supply AG, The Home Depot, Target Corporation, and Petitioner) commented on the scope of these investigations. The Department reviewed these comments and made certain changes. For further discussion, *see* the Issue and Decision Memorandum.² The scope in Appendix I reflects all modifications to the scope made by the Department for this final determination.

¹ *See Certain Steel Nails From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 79 FR 78058 (December 29, 2014) (*Preliminary Determination*) and the accompanying Preliminary Decision Memorandum.

² *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Abdelali Elouaradia, Acting Office Director, Office VI, Antidumping and Countervailing Duty Operations, regarding “Issue and Decision Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Certain Steel Nails from the Socialist Republic of Vietnam” (Issue and Decision Memorandum),

Verification

In light of each mandatory respondent's decision to withdraw from the investigation and not to participate in a verification, we conducted no verifications.

Analysis of Comments Received

Petitioner raised one issue in its case brief, which is addressed in the Issue and Decision Memorandum. A list of the contents of this memorandum is attached to this notice in Appendix II. The Issue and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to this system is available to registered and guest users at <http://access.trade.gov> and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issue and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/enforcement/frn/index.html>. The signed and electronic versions of the Issue and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on consideration of the events that transpired after the preliminary determination and our analysis of the comments received, we find that Region Industries and United Nail are not separate from the Vietnam-wide entity and that the estimated dumping margin for the entity should be based on the adverse facts available on the record, pursuant to sections 776(a)(2)(A), (C) and (D) and section 776(b) of the Act. This rate, derived from the Petition,³ was corroborated upon examination of the documentation supporting the Petition. For more details,

dated concurrently with this determination and hereby adopted by this notice.

³ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam, dated May 29, 2014 (Petition).

see the accompanying Issue and Decision Memorandum and company-specific analysis memoranda for the final determination.

Separate Rate

Kosteel Vina Limited Company (Kosteel Vina) established its eligibility for a separate rate.⁴ The Act and regulations do not address how we are to determine the dumping margin for separate rate companies not selected for individual examination. Normally, the Department's practice is to assign to separate-rate companies that were not individually examined a dumping margin equal to the average of the margins calculated for the individually examined respondents, excluding any margins that are zero, *de minimis*, or based entirely on facts available. If all dumping margins for the individually examined respondents are zero, *de minimis*, or based entirely on facts available, then we will use any reasonable method, including averaging the dumping margins for the individually examined respondents. In this investigation, the individually examined respondents are part of the Vietnam-wide entity, the rate for which is based entirely on facts available. We have no other reliable margin or data on the record to determine the separate rate for Kosteel Vina. Therefore, we have assigned the sole petition rate of 323.99 percent, which was corroborated by documentation supporting the petition, and is the only available rate on the record, to Kosteel Vina. For more details, see the Separate Rate memorandum for the final determination.⁵

Combination Rates

⁴ See the Preliminary Decision Memorandum at 7 and 8.

⁵ See Memorandum to Brian Davis, Acting Program Manager, Office VI, from Edythe Artman, International Trade Compliance Analyst, Office VI, regarding "Change in Rate for the Separate-Rate Company," dated May 13, 2015.

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.⁶ Policy Bulletin 05.1 sets forth this practice.⁷

Final Determination Margins

The Department determines that the following estimated weighted-average dumping margins exist for the period October 1, 2013, through March 31, 2014:

Exporter	Producer	Weighted-Average Dumping Margin
Kosteel Vina Limited Company	Kosteel Vina Limited Company	323.99%
Vietnam-Wide Entity*		323.99%

* The Vietnam-wide entity includes the following exporters/producers: Region Industries Co., Ltd., United Nail Products Co., Ltd., Cong Ty TNHH Công Nghệ Nhựa A Châu, Kim Tin Group, Megastar Co., Ltd. and Simone Accessories Collection.

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with a final determination within five days of the date of public announcement of the final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because the Department, in accordance with section 776 of the Act, applied adverse facts available to determine the estimated weighted-average dumping margin for the mandatory respondents in this investigation, there are no calculations to disclose to parties.

⁶ See *Certain Steel Nails From India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 36019 (June 25, 2014) (*Initiation Notice*).

⁷ See Enforcement and Compliance Policy Bulletin No. 05.1 “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on the Department’s Website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of subject merchandise, as described in the “Scope of the Investigation” section of this notice, from Vietnam that were entered or withdrawn from warehouse for consumption on or after December 29, 2014, the publication date of the *Preliminary Determination* in the *Federal Register*.

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.⁸ In the final determination of the companion countervailing duty investigation of certain steel nails from Vietnam, the Department determined that the mandatory respondents and all other companies benefited from export subsidies.⁹ Thus, we will offset the estimated weighted-average dumping margin of 323.99 percent for the Vietnam-wide entity and the separate-rate company by the countervailing duty rate of 33.59 percent attributable to export subsidies,¹⁰ resulting in a cash-deposit rate of 290.40 percent for the Vietnam-wide entity and the separate-rate company.

⁸ See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in less-than-fair-value investigations not in the margin-calculation program, but in the cash-deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁹ See *Certain Steel Nails From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, and accompanying Issues and Decision Memorandum at 12-22, signed concurrently with this notice.

¹⁰ See *id.* The following subsidy programs, countervailed for all companies in the final determination of the concurrent countervailing duty investigation, are export subsidies: Preferential Lending to Exporters (1.17 percent), Import Duty Exemptions and Reimbursements for Imported Raw Materials for Exported Goods (4.46 percent), Export Factoring (1.17 percent), Financial Guarantees (1.17 percent), Export Credits from the Vietnam Development Bank (0.21 percent) and Export Promotion Program (25.41 percent).

With respect to the separate-rate company, Kosteel Vina, we find that an export subsidy adjustment of 33.59 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the countervailing duty rate (*i.e.*, the “All Others” rate) to which the separate-rate company is subject in the companion countervailing duty proceeding. With respect to the Vietnam-wide entity, we find that an export-subsidy adjustment of 33.59 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the countervailing duty rate to which Vietnam-wide entries are currently subject.

We are not adjusting the final determination rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit for all suspended entries at an *ad valorem* rate equal to the weighted-average amount by which normal value exceeds U.S. price, with the above-noted adjustments, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination; (2) for all Vietnamese exporters of merchandise under consideration which have not received their own rate, the cash-deposit rate will be the rate established for the Vietnam-wide entity; and (3) for all non-Vietnamese exporters of merchandise under consideration and for all non-Vietnamese exporters of merchandise under consideration which have not received their own rate, the cash-deposit rate will be the rate applicable to the Vietnamese exporter/producer combination that supplied the non-Vietnamese exporter. These suspension-of-liquidation and cash-deposit instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at less than fair value. Because

the final determination in this proceeding is affirmative, the ITC will make its final determination, in accordance with section 735(b)(2) of the Act, as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel nails from Vietnam no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, then the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act.

Dated: May 13, 2015.

Christian Marsh,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is certain steel nails having a nominal shaft length not exceeding 12 inches.¹¹ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of this investigation are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: 1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; 2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; 3) swivel seats with variable height adjustment; 4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); 5) seats of cane, osier, bamboo or similar materials; 6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); 7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or 8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

¹¹ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

Also excluded from the scope of this investigation are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of this investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of this investigation are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this investigation are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this investigation are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this investigation also may be classified under HTSUS subheading 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

Contents of the Accompanying Final Issue and Decision Memorandum

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